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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/630,155

07/29/2003

Stephen Presutti

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05/26/2005

INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE
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EXAMINER

NOLAND, KENNETH W

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/630,155	Applicant(s) PRESUTTI ET AL	
	Examiner Kenneth W Noland	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 14-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6,7,10 and 11 is/are rejected.
- 7) ☒ Claim(s) 8,9,12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-08-04</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Claims 19-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected *invention**, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on **04-14-05. Claims 14-18 are also withdraw as being drawn to a nonelected invention of which was not traversed in the reply filed on 04-14-05.*Claims 19-24 are still directed to the invention of group II in so much as the structure of claims 19-24 essentially provides the corresponding elements of claims 14-18 ,as the recitation of the "validation code" or the "sensor and processor for detecting a symbol on the sheet" (claim 24) .Claim 14 recites the corresponding "machine readable coded information". Finally, claims 14-24 do not clearly recite a label dispenser in claims 1-13 and are still considered distinct as noted in the restriction requirement filed on 04-07-05.
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shon in view of Gerber. Shon discloses a label dispenser having a label sheet assembly with backing 19 and adhesive between the backing and the label (see col 2, lines 16-21). Note in col 3, lines 22-26 ,the use of face stock (52) which the labels are die cut. Note also in col 1, lines 24-25 that the label is partially separated by the peeling 'blade' 35 in figure 7. To provide Shon's labels for coded information to advance the label sheet

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in accordance with the coded information, would be obvious in view of the teachings of Gerber which discloses in column 2, lines 51-58 coded information on each label so that a drive would so position the label in response to the coded information, so as to effect better control and positioning of the labels. Note in figure 7, the use of bar coded information 130, as well as, text 128 on the labels to identify an associated part.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Shon in view of Gerber ** as applied to claims 6 and 7*** above, and further in view of *Teradaira et al. To provide Shon's dispenser for a sensor to detect the edge of the label sheet assembly would be obvious in view of the teachings of Teradaira et al 's use of a detector (sensor) to detect a leading edge of a sheet (see col 5, lines 19-22) so as to better control the advancement of the sheet assembly.

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5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shon in view of Gerber*** as applied to claims 6 and 7*** above, and further in view of **Koch et al. To so provide that Shon's coded information would provide information as to the 'configuration' of the label , would be obvious in view of the teachings of Koch et al which discloses in col 17, lines 47-52 the use of bar coded markings on a label to provide information as to the material 'configuration' of the label and to so effect giving forth further information as presented on the label.

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6. *Claims 8,9,12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 1-5 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday ,each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kenneth W. Noland 5/19/2005

**KENNETH W. NOLAND
PRIMARY EXAMINER**